

**COMMONWEALTH OF MASSACHUSETTS  
CIVIL SERVICE COMMISSION**

SUFFOLK, ss.

SHELLEY RUBIN,  
Appellant

v.

C-07-229

DEPARTMENT OF REVENUE,  
Respondent

Appellant's Attorney:

Pro Se  
Shelley Rubin

Respondent's Attorney:

Elizabeth Herriott Tierney, Esq.  
100 Cambridge Street  
P.O. Box 9557  
Boston, MA 02114

Commissioner:

John J. Guerin, Jr.

**DECISION**

Pursuant to the provisions of G.L. c. 30, § 49, the Appellant, Shelley Rubin (hereinafter "Ms. Rubin" or "Appellant"), is appealing the April 28, 2006 decision of the Human Resources Division (HRD) denying her request for reclassification from the position of Child Support Enforcement Specialist (CSES) A/B to the position of CSES C. The appeal was timely filed and a hearing was held on November 6, 2007 at the offices of

the Civil Service Commission (hereinafter “Commission”). One tape was made of the hearing. The parties agreed not to submit post-hearing briefs.

**FINDINGS OF FACT:**

Based on the documents entered into evidence (Joint Exhibits 1 – 9 and Appellant’s Exhibit 1) and the testimony of Sandra Antonucci, Personnel Analyst II; Robert Crist, Northern Regional Director, Child Support Enforcement Division (“CSE”) and the Appellant, I make the following findings of fact:

1. Ms. Rubin began working for the Department of Revenue (hereinafter “Department” or “DOR”) Child Support Enforcement (CSE) Division in July 1996 as a representative in the Customer Service Bureau. Ms. Rubin then worked in the Case Create Unit beginning in November 1998 as a Child Support Enforcement Worker I. (Appellant’s Exhibit 1 and Joint Exhibit 2)
2. At the time of this hearing, Ms. Rubin had held the title of CSES A/B for at least 7 years and currently works in the Northern Region Field Operations Unit of the Child Support Enforcement Division in Salem. (Exhibit 3)
3. New class specifications for the CSES series were approved by the Personnel Administrator in 2001. The classification specifications provide that a CSES A/B “title is used for nonsupervisory Child Support Enforcement Specialists...” A CSES C “title is used for Child Support Enforcement Specialists who are first-level supervisors and/or non-supervisory employees performing the most complex assignments”. (Exhibit 1)
4. The class specifications further provide for a CSES C:

“Non-supervisory expert employees have exceptional mastery of technical job content beyond the usual competency level and perform functions considered complex for the series. They provide consultation and guidance to colleagues. Examples of non-supervisory expert assignments are: Child Support Training Specialist”. (Id.)

5. In February 2005, the Child Support Enforcement Division underwent a business process redesign, which brought the child support cases into the regional offices and created what is known as “case owners”. (Testimony of Crist)
6. After the business process redesign, the Appellant’s Case Create team became known as the Case Initiation team. The team’s duties were to continue to include creating and updating of cases as necessary. (Appellant’s Exhibit 1)
7. As a member of the Case Initiation team, Ms. Rubin does not “own” a case but, rather, “creates” cases for case owners. (Testimony of Antonucci)
8. Case owners perform the duties and responsibilities contained on the 2001 CSES classification specifications under Child Support Case Manager. Case “owners” work cases from beginning to end. Ms. Rubin is a “process” owner as she initiates cases and has no case inventory upon which she works. Therefore, she is not considered a “case owner”. In any event, Ms. Rubin is viewed as a very good employee by the Department. (Testimony of Antonucci and Opening Statements of DOR)
9. Case “creators” do not perform expert level work in the normal course of business. Ms. Rubin mostly performs data entry and is the keeper of information for cases. (Testimony of Crist and Antonucci)

10. Ms. Rubin does not directly supervise any employee as set forth in the Level Distinguishing Duties of the CSES C position. (Testimony of Antonucci and Joint Exhibit 1)
11. Ms. Rubin does not “have exceptional mastery of technical job content beyond the usual competency level and perform functions considered complex for the series”. (Testimony of Crist and Joint Exhibit 1)
12. Sandra Antonucci testified that, although it is true that CSES C’s do the same work as CSES A/B’s since the business process redesign, the DOR does not and cannot demote the CSES C’s to A/B’s because there is no “just cause” to do so as required by civil service laws and rules, as well as the Collective Bargaining Agreement with these employees. This situation led to an abundance of reclassification requests. (Id.)
13. On September 9, 2004, Ms. Rubin filed a request for reallocation of her position from a CSES A/B to a CSES C with the DOR’s Human Resources Bureau (“HRB”). (Stipulated Fact)
14. Ms. Antonucci conducted an interview with Ms. Rubin on October 2, 2004, reviewed the applicable paperwork and determined that Ms. Rubin was properly classified as a CSES A/B. (Testimony of Antonucci and Exhibit 3)
15. On December 16, 2004, the DOR’s HRB issued a preliminary denial of Ms. Rubin’s request to be reclassified to a CSES C. (Exhibit 4)
16. On December 8, 2004, Ms. Rubin issued a rebuttal to the HRB’s preliminary decision. (Exhibit 5)

17. On December 16, 2004, the DOR's HRB issued its final decision, denying Ms. Rubin's appeal. Ms. Rubin opted to appeal this decision to the HRD on February 28, 2006. (Exhibit 6 and Stipulated Fact)
18. On April 28, 2006, the HRD concurred with the DOR's finding that Ms. Rubin was appropriately classified as a Child Support Enforcement Specialist A/B. (Stipulated Fact)

### **CONCLUSION:**

After careful review of the testimony and evidence presented in this appeal, the Commission concludes that the decision of the HRD denying Ms. Rubin's request for reclassification should be affirmed.

The Appellant has not met her burden of showing that she was improperly classified as a Child Support Enforcement Specialist A/B. She seeks reclassification to a CSES C. Ms. Rubin, however, does not directly supervise anyone nor has she shown that she performs "the most complex assignments." Non-supervisory expert employees must perform beyond the usual competency level in order to qualify as a CSES C. Ms. Rubin did not demonstrate, nor was she required to perform, exceptional mastery of technical job content in her duties in the Northern Region. Therefore, she has not shown that she performed the duties of a CSES C more than 50% of the time as required for consideration to be reclassified into a higher position. Further, the fact that CSES C's are performing similar duties as CSES A/B's does not entitle the Appellant to reclassification of her position.

For all of the above stated findings of fact and conclusion, the appeal on Docket No. C-07-229 is hereby *dismissed*.

Civil Service Commission

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John J. Guerin, Jr.  
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Taylor, Henderson, Marquis and Guerin, Commissioners) on January 3, 2008.

A true record. Attest:

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Commissioner

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice to:  
Shelley Rubin  
Elizabeth Herriott Tierney, Esq.